IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 11TH APRIL 2007 / 21ST CHAITHRA 1929

WP(C).No. 33811 of 2006(A)

PETITIONER:

MRS.MINI MATHAI,
KANAMPURATHU HOUSE, DHOTTAPPAMKULAM,
SULTHANBATHERY P.O., WAYANAD DISTRICT.

BY ADV. SRI.DEVAN RAMACHANDRAN
SRI.SUMESH KUMAR N.C.
SRI.K.M.ANEESH

RESPONDENTS:

---

1. STATE OF KERALA,
REP. BY THE SECRETARY,
GENERAL EDUCATIONAL DEPARTMENT,
THIRUVANANTHAPURAM.

2. THE DISTRICT EDUCATIONAL OFFICER,
CIVIL STATION, KALPPATTA, WAYANAD DISTRICT.

3. KERALA PUBLIC SERVICE COMMISSION,
DISTRICT OFFICE, WAYANAD DISTRICT,
REP. BY ITS DISTRICT OFFICER.

4. THE MOOPPAINAD GRAMA PANCHAYATH,
VADUVANCHAL P.O., MOOPAINAD, WAYANAD DISTRICT,
REP. BY ITS SECRETARY.

BY GOVT.PLEADER SRI. A.J.VARGHESE.
R3 BY ADV. SRI.P.C.SASIDHARAN, SC, KPSC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

- -

WP.(C) No.33811 OF 2006

- -

Dated this the 11th day of April, 2007

JUDGMENT

Petitioner was a candidate for the post of L.P.School Assistant (Malayalam Medium). By Ext.P1 notification dated 26.4.2005 applications were called for for appointment to the post of UPSA (Malayalam Medium). Note No.1 in Ext.P1 categorically states that vacancies reported and vacancies in the Panchayat Schools will also be filled up from the rank list prepared pursuant to the notification. Petitioner applied and she was ranked No.10 in Ext.P2 rank list. Ext.P3 advice memo was sent. Petitioner was appointed in a Grama Panchayat School. According to the petitioner, petitioner had not applied for appointment to a School under any Grama Panchayat and hence Ext.P3 memo advising her for appointment to a Grama Panchayat School without obtaining her consent is illegal. In short the contention of the petitioner is that prospects of the candidates appointed in the Grama Panchayat

School are so different to that of those appointed in a Government School and that the two posts cannot be in any manner be equated to each other. It is the contention of the petitioner that the it is in violation of Article 14 of the Constitution in so far as unequals are treated equally. It is the petitioner's case that there is no chance of transfer or promotion if petitioner is appointed in a Grama Panchayat School.

2. Counter is filed by the respondent Commission. It is stated that the turn of the petitioner came against the 23rd vacancy and the vacancy is reported for Mooppainad Grama Panchayat and she was rightly advised to the vacancy. It is stated that it could be seen that out of the 52 candidates advised, four candidates including the petitioner are advised to the Panchayat Schools in the order of their turn occurred in the rotation worked out for the above vacancies.

3. Petitioner no doubt challenges Ext.P1 notification and seeks to quash the notification to the extent it enables respondents

1 and 3 to select, advise and appoint the candidates to Grama Panchayat Schools. She challenges Ext.P3 advice memo and seeks to quash the same to the extent it advises the appointment of the petitioner to the School under the Grama Panchayat. She also seeks a direction to the third respondent to issue fresh advise memo to the petitioner advising her to appoint to a School other than one under a Grama Panchayat. Learned Standing Counsel also submits that there is lack of pleadings to substantiate the contention of the petitioner. He further pointed out that the pay scale of UPSA in Grama Panchayat School is the same as UPSA in other Schools.

4. I find that the notification is dated 26.4.2005. This writ petition is filed on 18.12.2006. Petitioner has no case that there is any pick and choose among the candidates for being advised to a Panchayat School. It is clear that when the vacancy arose, against which the petitioner could be advised, it happened that the vacancy was one in a Panchayat School. Note in Ext.P1 is unambiguous. Petitioner was clearly put on notice before she applied that she

could be selected for appointment to a Panchayat School. Petitioner did not choose to take appropriate proceedings till she came to be advised against the vacancy in a Panchayat School. I would think that in such circumstances, it would not promote justice to allow the petitioner at this stage to challenge the Note. Accordingly the writ petition is dismissed.

(K.M. JOSEPH, JUDGE)

sb

K.M.JOSEPH, JJ.

- - - -

Dated this the day of February, 2006.